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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,724	06/27/2003	Gregory A. Peek	42P16079	6495
8791	7590	04/06/2005	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			A, MINH D	
			ART UNIT	PAPER NUMBER
			2821	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/607,724

**Applicant(s)**

PEEK, GREGORY A.

**Examiner**

Minh D A

**Art Unit**

2821



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-15 and 19-25 is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 16-18 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-4, 16 are rejected under 35 U.S.C. 102(b) as being unpatentable by Carloni et al (US 5,815,115).

Regarding claim 1, Carloni discloses a switched gain antenna comprising a primary antenna (106) having a gain and a secondary antenna (110) having a gain greater than the gain of the primary antenna (106); wherein the gain of the secondary antenna is at least about 6 dBi. See figures 1-7, col.3, lines 30-65 to col.5, lines 1-65.

Regarding claims 3, Carloni discloses wherein the gain of the secondary antenna (110) is at least about 12 dB. See col.3, lines 30-65.

Regarding claim 4, Carloni disclose wherein the gain of the primary antenna is less than about 6 dBi. See col.5, lines 30-65.

Regarding claim 16, Carloni discloses a primary antenna (106) having a gain and a secondary antenna (110) having a gain greater than the gain of the primary antenna (16). See figures 1-7, col.5, col.3, lines 30-65.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-8 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Carloni et al (US 5,815,115).

Regarding claims 4-8 and 17-18, Carloni discloses the claimed invention but does not explicitly disclose the gain of the primary antenna is less than about 6 dB or less than 3 dB or wherein the primary antenna (16) is a dipole antenna and the secondary antenna is a dipole antenna or access point. It would have been an obvious matter of design choice to employ antenna of Carloni in any desired interest the gain of the primary antenna is less than about 6 dB or less than 3 dB or wherein the primary antenna (16) is a dipole antenna and the secondary antenna is a dipole antenna or the WLAN device is an access point (AP) in order to maximize the usage of his invention, since applicant does not disclose that, all of these limitations can solve any stated problem and for any particular purpose. Therefore, it appears that the invention would not provide any improvement but merely apply the invention in different presentation.

***Allowable Subject Matter***

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5. Claims 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach that, wherein the primary antenna is a dipole antenna or an inverted-F antenna or the primary antenna is transmit and receive antenna and the secondary antenna is a receive only antenna or a power amplifier having an output terminal coupled to the primal antenna via a switch or amplifier has output power of at least about 17 dBm. Recited in dependent claims 9-12.

The prior art does not teach that, a first antenna to transmit and receive signals; and a second antenna to only receive signals and having a gain greater than a gain of the first antenna; wherein the second antenna is separate from the first antenna recited in independent claims 13 and 19.

The prior art does not teach that, a selectively switching between either a primary antenna or a diversity antenna to receiver signals, wherein a gain of the primary antenna is less than a gain of the diversity antenna and the diversity antenna is discrete from the primary antenna recited in independent claim 23.

### ***Conclusion***


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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Benjamin et al (US 6,415,140) and Talwar. (US 5,117,505) are cited to show a diversity antenna.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (571) 272-1817. The examiner can normally be reached on M-F (5:30 –2:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (571) 272-1834. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (571) 272-1553.

  
**WILSON LEE**  
**PRIMARY EXAMINER**

Examiner

Minh A

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4/3/05